

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

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LIAM ROONEY,

Plaintiff(s),

-against-

Docket No. 07 CIV 5950(PKL)
Date Filed: 6/22/07

ANSWER

YARROW LLC, FJ SCIAME CONSTRUCTION CO.,
INC. and SCIAME DEVELOPMENT INC.,

Defendant(s).
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Defendants, YARROW, LLC; F.J. SCIAME CONSTRUCTION CO.,
INC., incorrectly sued herein as FJ SCIAME CONSTRUCTION CO., INC. and
SCIAME DEVELOPMENT INC., by their attorneys, CONWAY, FARRELL,
CURTIN & KELLY, P.C., as and for their Answer state:

AS AND FOR A FIRST CAUSE OF ACTION

1. These Defendants deny any knowledge or information sufficient to form a belief as to each and every allegation contained in paragraphs of the complaint numbered "1".
2. These Defendants admit the allegation contained in paragraph of the complaint numbered "2".
3. These Defendants admit the allegation contained in paragraph of the complaint numbered "3".
4. These Defendants admit the allegation contained in paragraph of the complaint numbered "4".
5. These Defendants deny any knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph of the complaint numbered "5" and refers all questions of law to the Court.

6. These Defendants deny any knowledge or information sufficient to form a belief as to each and every allegation contained in paragraphs of the complaint numbered "6".

7. These Defendants deny any knowledge or information sufficient to form a belief as to each and every allegation contained in paragraphs of the complaint numbered "7".

8. These Defendants deny each and every allegation contained in paragraph of the complaint numbered "8", except admit that construction work was being performed at premises located at 214-224, 213-235 Front Street, New York, New York.

9. These Defendants deny each and every allegation contained in paragraph of the complaint numbered "9", except admit that construction work was being performed at premises located at 214-224, 213-235 Front Street, New York, New York.

10. These Defendants deny each and every allegation contained in paragraph of the complaint numbered "10", except admit that renovation and construction work was being performed at premises located at 214-224, 213-235 Front Street, New York, New York.

11. These Defendants admit the allegation contained in paragraph of the complaint numbered "11".

12. These Defendants deny each and every allegation contained in paragraph of the complaint numbered "12".

13. These Defendants deny each and every allegation contained in paragraph of the complaint numbered "13", except admit that F.J. SCIAME CONSTRUCTION CO., INC., was the construction manager for renovation and construction work was being performed at premises located at 214-224, 213-235 Front Street, New York, New York.

14. These Defendants deny each and every allegation contained in paragraph of the complaint numbered "14".

15. These Defendants deny each and every allegation contained in paragraph of the complaint numbered "15".

16. These Defendants deny each and every allegation contained in paragraph of the complaint numbered "16".

17. These Defendants deny each and every allegation contained in paragraph of the complaint numbered "17".

18. These Defendants deny each and every allegation contained in paragraph of the complaint numbered "18".

19. These Defendants deny each and every allegation contained in paragraph of the complaint numbered "19".

20. These Defendants deny each and every allegation contained in paragraph of the complaint numbered "20", except admit that F.J. SCIAME CONSTRUCTION CO., INC., hired subcontractors for renovation and construction work being performed at premises located at 214-224, 213-235 Front Street, New York, New York.

21. These Defendants deny each and every allegation contained in paragraph of the complaint numbered "21", except admit that F.J. SCIAME CONSTRUCTION CO., INC., contracted with subcontractors for renovation and construction work being performed at premises located at 214-224, 213-235 Front Street, New York, New York.

22. These Defendants deny each and every allegation contained in paragraph of the complaint numbered "22", except admit that F.J. SCIAME CONSTRUCTION CO., INC., hired Navillus Construction for renovation and construction work being performed at premises located at 214-224, 213-235 Front Street, New York, New York.

23. These Defendants deny each and every allegation contained in paragraph of the complaint numbered "23", except admit that F.J. SCIAME CONSTRUCTION CO., INC., contracted with Navillus Construction for renovation and construction work being performed at premises located at 214-224, 213-235 Front Street, New York, New York.

24. These Defendants deny each and every allegation contained in paragraph of the complaint numbered "24", except admit that YARROW, LLC. owned the premises located at 214-224, 213-235 Front Street, New York, New York.

25. These Defendants deny each and every allegation contained in paragraph of the complaint numbered "25".

26. These Defendants deny each and every allegation contained in paragraph of the complaint numbered "26".

27. These Defendants admit the allegation contained in paragraph of the complaint numbered "27".

28. These Defendants deny each and every allegation contained in paragraph of the complaint numbered "28".

29. These Defendants deny each and every allegation contained in paragraph of the complaint numbered "29".

30. These Defendants deny any knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph of the complaint numbered "30".

31. These Defendants deny any knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph of the complaint numbered "31"

32. These Defendants deny any knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph of the complaint numbered "32".

33. These Defendants deny each and every allegation contained in paragraphs of the complaint numbered "33".

34. These Defendants deny each and every allegation contained in paragraphs of the complaint numbered "34" and refers all questions of law to the Court.

35. These Defendants deny each and every allegation contained in paragraphs of the complaint numbered "35".

36. These Defendants deny each and every allegation contained in paragraphs of the complaint numbered "36".

37. These Defendants deny each and every allegation contained in paragraphs of the complaint numbered "37".

38. These Defendants deny any knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph of the complaint numbered "38".

39. These Defendants deny each and every allegation contained in paragraphs of the complaint numbered "39".

AS AND FOR A FIRST AFFIRMATIVE DEFENSE

40. That the culpable conduct of the plaintiff brought about the alleged damages and injuries which plaintiff claims without any culpable conduct on the part of the answering defendants, their agents, servants or employees.

41. That if the Court find after trial that any culpable conduct of the answering defendants, their agents, servants or employees contributed to the alleged damages or injuries to the plaintiff, then and in that event the answering defendants pray that the amount of damages which might be recoverable shall be diminished in the proportion which the culpable conduct attributable to the plaintiff bears to the culpable conduct which caused the alleged damages or injuries.

AS AND FOR A SECOND AFFIRMATIVE DEFENSE

42. That the injuries alleged to have been sustained by the plaintiff were sustained while plaintiff was in the incident and premises into which

he had entered, knowing full well the hazard thereof and the inherent risk incident thereto, and knowing the dangers thereof, that such risks and dangers were expected and assumed by the plaintiff upon entering into and continuing in such incident and premises.

AS AND FOR A THIRD AFFIRMATIVE DEFENSE

43. In the event plaintiff recovers a verdict or judgment against these answering defendants, then said verdict or judgment must be reduced pursuant to CPLR 4545(c) by those amounts which have been, or will, with reasonable certainty, replace or indemnify plaintiff, in whole or in part, for any past or future claims, economic loss, from any collateral source including but not limited to insurance, social security, worker's compensation or employee benefit programs.

AS AND FOR A FOURTH AFFIRMATIVE DEFENSE

44. These answering Defendants claim that they are not responsible to the plaintiff herein. However, to the extent that the trier of the facts finds liability of 50 per cent or less as defined by Article 16 C.P.L.R., these answering defendants claim entitlement to the benefits set forth.

AS AND FOR A FIFTH AFFIRMATIVE DEFENSE

45. That Plaintiff's complaint is barred by the Statute of Limitations.

WHEREFORE, answering defendants, YARROW, LLC; F.J. SCIAME CONSTRUCTION CO., INC., incorrectly sued herein as FJ SCIAME

CONSTRUCTION CO., INC. and SCIAME DEVELOPMENT INC., demand

judgment; 1) dismissing the complaint,
2) granting costs and disbursements of this action and such other
and further relief as this Court may deem just and proper.

Dated: New York, New York
July 25, 2007

CONWAY, FARRELL, CURTIN & KELLY, P.C.

BY:



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CONWAY, FARRELL, CURTIN & KELLY, P.C.

ATTORNEYS AT LAW

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